

**SCOTTSDALE AIRPORT ADVISORY COMMISSION  
15000 NORTH AIRPORT DRIVE, SCOTTSDALE, AZ**

**MARCH 10, 2004  
REGULAR MEETING**

**MINUTES**

<b>PRESENT:</b>	Donald Maxwell, Chairman Tom Guilfooy Bill Mack	Leonard Tinnan, Vice Chairman Phil Vickers Mike Osborne
<b>ABSENT:</b>	Fred Madanick	
<b>STAFF:</b>	Scott Gray, Aviation Director Gary Mascaro, Asst. Aviation Director Jennifer Lewis, Aviation Planner John Ralston, Financial Services	Chris Read, Asst. Aviation Director Matt Johnson, Airport Specialist Paul Norman, Assistant City Attorney
<b>OTHER(S):</b>	Geri Bumil, United Insurance John Forehand, Arizona Piper, LLC Bruce John Frevola, Corporate Jets Marty Gendron, Resident Karl Gimbel, Scottsdale Flyers Jim Houtz, Southwest Jet Ken Kepern, Resident	Herb Marchman, Scottsdale Air Center Jeff McClain, Resident John Meyer, SNAPOA Thomas Ropp, Arizona Republic Richard Schuller, Scottsdale Air Center Bruce Tully, Dynasty Air Incorporated Tommy Walker, Scottsdale Air Center

**CALL TO ORDER**

Chairman Maxwell called the meeting to order at 6:00 p.m.

**ROLL CALL**

A formal roll call confirmed members present /absent as stated above.

**APPROVAL OF MINUTES**

**Item 1 - Action**

Approval of the Minutes of the February 11, 2004 Meeting.

Commissioner Guilfooy requested a change in the wording of his comments in Item 3 of the February 11<sup>th</sup> minutes to reflect he was making an inquiry not a statement.

Vice Chairman Tinnan made a motion to approve the minutes as corrected. Commissioner Mack seconded the motion and the minutes were approved by a vote of 6-0.

**PUBLIC COMMENT**

Chairman Maxwell advised the Commission that Mr. John Meyer wished to make a public comment. Mr. Meyer stated he has an item of clarification as it pertains to an action item taken at the last Commission meeting regarding the blast fence/wall on the northwest side of the Airport. He stated the Scottsdale North Airport Property Owners Association (SNAPOA) would like to continue discussions concerning the possibility of resolving the problems of noise and debris in that area. Mr. Meyer added they would like to go on record that they would like a meeting involving representatives from the property.

Mr. Meyer read an email he received from Mr. Scott Gray to the owners of the property concerning this issue. Mr. Meyer stated he had a meeting with Mr. Gray in which it was indicated that the City would not participate in any further corrective action.

Mr. Paul Norman advised the Commission that this issue has already been discussed between representatives of the City Attorney's office and Mr. Meyer's client, and it is the City Attorney's position that the City has no responsibility with respect to the construction of the fence. He noted Mr. Gray had indicated the Airport does intend to do some sort of corrective action, but not construction of a fence. Mr. Norman stated Mr. Meyer and his client could meet with City staff if he desires staff to reiterate that position.

Chairman Maxwell stated they made a motion at the February 11<sup>th</sup> meeting regarding this issue. Mr. Norman responded he was not at that meeting and if he had been he perhaps could have conveyed to the Commission that the City Attorney's office had already taken a position with Mr. Meyer's client that the City was not going to participate in the construction of blast fence.

Chairman Maxwell referred to the City expending funds for the blast fence erected on the southeast side of the Airport. Mr. Gray interjected that that money came from a federal grant.

Commissioner Vickers asked if Mr. Norman was saying to the Commission that they have no right to meet with Mr. Meyer's client and come up with a resolution and make recommendations to City Council, that if they do that, that action would have already been overridden by the Legal department? Mr. Norman responded that if the Commission would like to meet with Mr. Meyer's client they could do so. He added what he is saying is there is little point in staff meeting with Mr. Meyer's client because it is the City Attorney's position that the City does not intend to participate in any payment toward the costs.

Commissioner Mack inquired what the Commission would have to do to change the opinion of the City Attorney's office, if the Commission wants to build a fence and make a motion to build a fence. Mr. Norman informed the Commission that it could make a recommendation to the City Council. They can put it on the agenda for next month, and they can make a recommendation that the City participate in some way in the construction of the fence, and then forward it to the City Council for action.

Commissioner Vickers suggested that Chairman Maxwell appoint a committee of the members of the Commission to meet with Mr. Meyer's client and attempt to come up with a resolution that could be presented in open session to the other members.

Chairman Maxwell stated he would like to recommend that this issue be made an action item for the next meeting and, prior to that meeting, have an Executive Session with the City Attorney's office.

Chairman Maxwell added he did not think they would need a committee, however they should have an Executive Session and action item next month. Chairman Maxwell then requested a special meeting so they could have a short session with City Attorney and then make a decision on this issue. Mr. Gray advised they could discuss this later under Item 10, Meeting Schedule.

## **AERONAUTICAL BUSINESS PERMIT(S)**

### **Item 2 – Action**

Ratification of Airport Aeronautical Business Permit for Dynasty Air Incorporated to provide aircraft charter services at Scottsdale Airport.

Mr. Matt Johnson advised the Commission that Dynasty Air Incorporated has provided the appropriate documentation required in the Airport Minimum Operating Standards. The insurance requirements have been met naming the City of Scottsdale as additional insured. This action is not anticipated to result in additional tiedown area demand, and is in an existing hangar facility. Mr. Johnson added the associated permit fees are anticipated to generate approximately \$1,200 in annual revenue to the Aviation Enterprise Fund. Mr. Johnson advised that Mr. Bruce Tully, president, was in attendance to respond to any inquires.

Vice Chairman Tinnan inquired if they were located in the Scottsdale Air Center facility. Mr. Tully responded they were. Commissioner Guilfooy inquired what type of aircraft they would be operating and Mr. Tully informed him of the type they use.

Vice Chairman Tinnan made a motion to ratify the Airport Aeronautical Business Permit for Dynasty Air Incorporated. Commissioner Osborne seconded the motion and it passed by a vote of 6-0.

**Item 3 - Action**

Ratification of Airport Aeronautical Business Permit for Arizona Piper, L.L.C. to provide aircraft sales services at Scottsdale Airport.

Mr. Johnson advised the Commission that Arizona Piper, L.L.C. has provided the appropriate documentation as required in the Airport Minimum Operating Standards, and has met the insurance requirements naming the City of Scottsdale as additional insured. This action is not anticipated to result in additional tiedown area demand and will be located in an existing hangar facility. Mr. Johnson stated the associated permit fees are anticipated to generate approximately \$300 in annual revenue to the Aviation Enterprise Fund. Mr. Johnson stated that Mr. John Forehand, manager, representing Arizona Piper, L.L.C. was present to respond to any questions from the Commission.

Vice Chairman Tinnan asked on what basis was the annual revenue calculated and that \$300 per year did not seem like much of an aircraft sales operation. Mr. Johnson stated it is based on a minimum of \$25 per month for Aeronautical Business Permit fees, however, if they sell an aircraft they would adjust the amount. He added there is a fee of \$150 or \$200 as outlined in the minimum operating standards.

Commissioner Guilfooy and Commissioner Vickers had questions concerning sales tax issues. Mr. Forehand provided details concerning sales taxes and rates paid relative to sale location and sale delivery.

Commissioner Mack made a motion to ratify the Airport Aeronautical Business Permit for Arizona Piper, L.L.C. Commissioner Guilfooy seconded the motion and it passed by a vote of 6-0.

**Item 4 – Information**

Aeronautical Business Permit Additions, Cancellations, or Revocations.

Mr. Johnson stated there was one new permittee listed on this month's update, which was Bancorp Services. There were no further changes to the list.

**GENERAL BUSINESS**

**Item 5 – Action**

Recommend to the City Council to AUTHORIZE Agreement No. 2001-133-COS(A) Lease Amendment between the City of Scottsdale and Scottsdale Air Center Real Estate, L.L.C.

Mr. Gary Mascaro stated this item concerns a lease amendment for the Scottsdale Air Center. He provided background information on the original lease and added as part of the lease agreement, there is a deadline to complete both sides of their entire property. The completion deadline was October 1, 2004, and throughout the completion process they had to meet certain requirements. Mr. Mascaro stated, technically, in accordance with the lease agreement, they did not meet those requirements. In particular, they did not provide a complete final plan 12 months prior to completion deadline, and technically, this would be a breach of their lease agreement. Mr. Mascaro stated they have had several discussions with the City Attorney's office and they felt this is an issue that should be moved forward to the Commission for an action to suggest possible options. He advised one option is to provide an extension on the completion deadline, as they requested their correspondence to have it moved from October 1, 2004 to December 31, 2005. Mr. Mascaro stated the other option would be to default their lease agreement, and modify the lease agreement as another lease amendment to remove that portion of their property and revert it back to the City. At that point, the City can review it and decide what they want to do.

Mr. Mascaro advised the Commission that Mr. Herb Marchman and Mr. Tommy Walker of Scottsdale Air Center were present to provide details of what they've developed so far, as well as their proposal.

Mr. Tommy Walker provided the Commission extensive background and details of the schedule of events that have transpired since the initial RFP in August of 2001, including financial and legal issues that had taken place in the process.

Mr. Herb Marchman provided the Commission with handouts detailing their original layout plan, and the plan for the Cholla parcel.

Vice Chairman Tinnan inquired why they waited until February 23<sup>rd</sup> to send a letter requesting the extension. Mr. Marchman responded it was a misunderstanding on his part as he was under the impression that the October 1<sup>st</sup> was the date to finish the east side.

Vice Chairman Tinnan said the original project design and construction schedule projected 8 months to complete and asked if that was still their expectation. Mr. Marchman responded that once the permitting is done it was possible. He added it is probably a 30-day process for the permits. Mr. Mascaro added it takes 8 or 9 months for the final plan approval process, including the permit issuance and that is the City's process, which they do not have any control over. Mr. Marchman stated they have an architect and an engineering firm standing by.

Commissioner Vickers inquired if there was any consideration paid at the time they originally executed the lease for the option period on the west parcel. Mr. Marchman responded no. However, they have been paying rent on that site, even though they did not have use for it. He added there is a clause in the lease agreement that is somewhat unclear, which says the base rent shall not begin to accrue on either parcel until the earlier of 1) completion deadline [October 2004], or 2) substantial completion of the project, or 3) the date the lessee becomes in default of the agreement. Mr. Marchman stated since the City said they had substantially completed the project, they started paying on both parcels and feel they have paid a strong price for not having the use of both.

Chairman Maxwell stated there were two people in attendance that wished to speak. He introduced Mr. Richard Schuller, President, Aerospace Services. Mr. Schuller stated he is past president of the Arizona Business Aviation Association (AzBAA), has his own company, and has been in the aviation industry for 50 years. Mr. Schuller read some comments he had prepared concerning competition, and the advantages of fair competition. He noted the NBAA event held at Scottsdale Air Center brought a lot of recognition, additional revenue, and favorable exposure to the City of Scottsdale. Mr. Schuller then gave a very lengthy discourse on the merits of having Scottsdale Air Center at Scottsdale Airport.

Mr. John Frevola, Corporate Jets, Inc. said no one would dispute that Scottsdale Air Center built a beautiful facility and they support a lot of local activity and the NBAA. However, that is not the issue here. The issue is they are asking for an amendment to their lease to cure an event of default. Mr. Frevola stated the procurement that went out for a new FBO went to a lot of different companies. Scottsdale Air Center was awarded it for many reasons, one of which was they chose to bid on and develop both parcels. Mr. Frevola added the lease is very clear, it doesn't distinguish between the two parcels, and it gives specific completion deadlines and construction milestones.

Mr. Frevola noted the Cholla Parcel is a very valuable piece of property and other companies in this City, Corporate Jets being one of them, who would like to bid on that parcel. He added if the lease can be modified they are establishing a precedent about what you can do in the event of lease default. Mr. Frevola stated that Scottsdale Air Center had their chance, they missed it, and they are technically in default of their lease. Mr. Frevola stated the City should consider putting it out to bid and see what proposals they get.

Vice Chairman Tinnan inquired if there were any legal restrictions against granting the requested type of extension. Mr. Norman responded that to his knowledge, there is not.

Commissioner Mack asked if anyone checked with Purchasing to see what they think. Commissioner Mack stated he deals with contracts all the time and if or when he doesn't meet one, whatever purchasing department he is dealing with penalizes him. Mr. Mascaro responded he has had conversations with the City Attorney's office and in his opinion they are not violating any bid requirements because as part of the bid package they did not require them to complete by October 1, they picked the date, and if they vote to amend the lease it would not be a violation of the bid requirements.

Chairman Maxwell stated regardless of whom chose the October 1<sup>st</sup> deadline; it is a contractual relationship with the City. Chairman Maxwell also expressed concern as to what type of precedent it might set.

Commissioner Vickers stated what bothers him most about the lease extension, and probably why he will vote against it, is he does not understand why there isn't any economic consideration. Commissioner Vickers added if they do not have any economic consideration in the lease extension they are opening themselves up to potential liability by third parties who do have an interest.

Mr. Mascaro stated they are paying rent for the land and are not making any money on it. Commissioners Vickers stated that on a lease negotiated in 2001, that in 2004 the value of the property is substantially greater, they have already been granted that 3-year period of time, and they are now going into another 18 months. Commissioner Vickers stated in some ways they have enhanced the value of the other property, and they are not getting any financial compensation.

Vice Chairman Tinnan stated at the last meeting Mr. Rosen expressed the need for more hangar facilities, and inquired if the airport had any plans for them. Vice Chairman Tinnan added that there is a buildup of expectation for hangars on the Cholla parcel. He asked if the City were to consider this a breach of contract and remove the Cholla Parcel from the lease, how long would it be before the City would be in a position to award a contract under a new bid cycle.

Mr. Mascaro responded that a conservative estimate would be about 7 months, then the successful bidder would have to start the process of site plan, permits, development review, construction process, etc., which would probably take another year.

Commissioner Mack expressed his concern that what they are being asked to do may set a precedent.

Mr. Gray stated the purchasing contracts are different than lease agreements, and lease agreements in the City have historically been modified throughout the years for a number of reasons. He added it is the City Attorney's position that does our leases and, in fact, an amendment was not necessary and they could have done a written agreement between the two parties. However, staff did not feel that was appropriate and would rather go through the amendment process, if that were the desire of the Commission.

Chairman Maxwell inquired if he was correct in understanding that the City Attorney's office has amended leases where there has been a material breach? Mr. Gray stated there have been breaches of leases, but we hadn't necessarily amended the lease, the breach was corrected in a timeframe negotiated between two parties. Mr. Norman added that Mr. Gray's statement was correct.

Commissioner Mack inquired what would happen if the Commission decided not to go along with the extension and would the City Attorney's office override that decision. Mr. Norman responded that in this case, staff wants this to go through the Commission and the City Council and that is why they are here. Mr. Norman stated ultimately it would be the City Council's decision, not the City Attorney's decision.

Commissioner Guilfoxy stated they are giving the Commission the options instead of supporting your position and he would like to be told why. He added they have a position, they have a good lessee, and they want to continue with the project. Mr. Gray asked if Commissioner Guilfoxy was asking staff's position. Commissioner Guilfoxy responded yes. Mr. Gray responded that staff has reviewed their plan. Staff is

pleased with what they are proposing to develop, but that is not the issue at hand. The issue at hand is if it is in the best interest of the City to allow them to extend the construction deadline.

Vice Chairman Tinnan stated that on the basis that the City Attorney indicated this doesn't establish a precedent, he would like to recommend an extension to December of 2005. Commissioner Guilfooy seconded the motion.

Commissioner Vickers stated he would like the record to reflect that he will agree to that but again he feels a responsibility to the taxpayers and they are being cheated by this deal. Therefore, he does not think it is a good idea to approve the extension.

The action passed with a vote of 5 to 1 with Commissioner Vickers opposed.

#### **Item 6 – Action**

Approve Aviation Enterprise Fund Five-Year Financial Forecast.

Mr. Mascaro stated the Commission has been provided with a revision to the draft plan that was presented as an information item on last month's agenda. Mr. Mascaro advised the Commission that at this time, they are not recommending any rate and fee increases or implementing any new fees.

Mr. Mascaro introduced Mr. John Ralston, Financial Services, who was present to provide additional detail on the Aviation Financial Plan and to go over some specific items. Mr. Ralston noted that the plan demonstrates that the Aviation Enterprise Fund is self-sufficient. He also noted the forecasts are conservative. Mr. Ralston reviewed several components of the forecast and a lengthy discussion ensued with Mr. Ralston and Mr. Mascaro responding to questions from the Commission.

Commissioner Mack made a motion to approve the Aviation Enterprise Fund Five-Year Financial Forecast. Commissioner Osborne seconded the motion and it passed by a vote of 6-0.

Subsequent to the approval vote, Commissioner Guilfooy asked if they are expected to give support to the financial forecasts like this could they have some background rather than just the top numbers? Commissioner Mack asked if he wanted more than what was provided in tonight's meeting? Commissioner Guilfooy responded yes.

#### **Item 7 – Information**

Change to the Airport and Airpark Rules and Regulations requiring airport perimeter building owners to implement and maintain a security plan.

Mr. Gray brought to the Commission's attention a newspaper article he passed out at the meeting and which relates to the next agenda item. Mr. Gray stated he wished to make a clarification since some people have read the article and have concluded something different than what he meant in his comments. When they were talking about increasing security improvements in facilities such as Scottsdale Hangar One and Southwest Jet, actually those two buildings are probably the most secure buildings in the Airpark that provide access to the airfield. Mr. Gray wanted to make sure it was understood that he was not pointing those two facilities out as not having the appropriate security.

Mr. Chris Read advised the Commission that next month staff will be looking for the Commission's approval of the changes to the Airport and Airpark Rules and Regulations. The changes will require all building owners and operators located on the airport perimeter to maintain and comply with an airport approved security plan. The rule changes will also provide a mechanism that will allow airport staff to inspect and if necessary make enforcement actions if plans are not adhered to. The plans were developed by a group of airport users, airport staff, Scottsdale Police department, and other City emergency services personnel. Mr. Read added it is a common sense, low cost approach to advancing the security at Scottsdale Airport by requiring minimum physical security standards, such as gate heights and sites of access. He added the plan would require the building owners to ensure that all the people who work in their respective buildings train their employees and make them aware of the items listed in

the plan. Mr. Read added that owners who wish to provide more detailed plans may do so, but they will only be approved if they contain at least the information listed in this plan.

Vice Chairman Tinnan stated he finds no fault with the plan, but would like to recommend that staff take immediate action to get some access control on the terminal building door. Mr. Read stated that particular door he is talking about is not secure, however, it does not lead to flight line operations. Mr. Gray interjected that within the next month all four doors from the terminal area to the flight line will be hooked up to the security system.

Commissioner Vickers asked if the security plans would differ from facility to facility. Mr. Read responded they would. Each individual building will be responsible for having their own security plan. However, they will have the choice of taking this plan and filling in the blanks and making sure they adhere to it, or they add from that to make their own. Commissioner Vickers inquired if they had a timeline to complete their security plan, have it on file and approved by the Aviation Director. Mr. Read stated if the changes are approved at the next Commission meeting, the Airport rules and regulations that are changed become effective 10 days after the meeting. A 30-day window would be given for everyone to be compliant. However, staff had asked all building owners last September/October to start since they knew the requirements would be forthcoming. He feels everyone is almost there. If someone were absolutely adamant about not doing the plan or adhering to it, enforcement action would be carried out through Chapter Five, with sanctions of up to \$250 for non-compliance.

Commissioner Mack had a question regarding item 11 in the plan that specifies a 2-inch fabric below ground level to be used in connection with chain link fencing. Mr. Read said it actually refers to materials, which are called fabric at times, and they wish the material to be at ground level or at least 2 inches below.

Mr. Gray reminded the Commission that this item would be coming back to the Commission next month as an action item.

Mr. Jim Houtz, Southwest Jet Aviation, stated he appreciated the comments that Mr. Gray made regarding his facility in correction to the comment in the newspaper article. He stated he has a strong interest in making Scottsdale Airport into one of the most successful airports in the southwestern part of the country. He feels we could always do better in matters of security and the City standards are similar to the FAA standards.

## **PILOT/COMMUNITY OUTREACH UPDATE**

### **Item 8 – Information**

February 2004 Noise Report.

Ms. Jennifer Lewis provided details of the February 2004 Noise Report. She denoted the areas where noise complaints were increased, including those in Ironwood, where they are trying to address their concerns.

Ms. Lewis reviewed some of the outreach projects completed in February, including a 3-hour speaking engagement at Realtors School educating realtors on the airport. This is a continuance of the program set up last year by Mr. Kevin Shirer, and former Airport Commissioner, Mr. David Vaughan.

Ms. Lewis stated she also had an article published in the Realtor magazine and copies would be provided to the Commission. In addition, over 200 letters were sent to various homeowner associations asking them if they were interested in having speakers from the airport talk to their group about any issue they might have. Ms. Lewis said they received a response from a homeowner association that they will be speaking to in April.

Commissioner Mack asked if the 25 pages of complaint callers in the report could be condensed to one page and call it the top 25 complainers. He added it appears they are wasting and it's the same person for extended hours with nothing but noise. Commissioner Mack said it's already done on the front page

when it says you have “x” amount of complainers, or 93% of the complaints and it is redundant to look at the following pages and see the same names over and over again. In addition, it is history, nothing can be done about it so it would be better to clean it up and condense the information.

Chairman Maxwell said he is in agreement with Commissioner Mack. In addition, he agrees with the letter Mr. Gray sent regarding complaints about people who are not violating rules, yet they continue to complain, and refuse to understand that they will no longer be called back, although they can continue to complain.

Commissioner Guilfoxy stated his perspective is that a lot of this is punitive on pilots and while some may make incursions, the vast majority does not. Commissioner Guilfoxy asked what they do for the operators that are well within their bounds.

Mr. Gray responded that one of the programs in their outreach is to create a pilot/company award program.

Commissioner Vickers agreed that they get too many pages about the same people calling repeatedly and he would suggest that they list only the person's name and the number of complaints for that month, rather than repeat every complaint. However, they need to recognize that the individual took the time to make the complaint and list how many complaints they made for that 30-day period of time. Commissioner Vickers stated he always pays attention to the low flying complaints because he trusts the public's gauge, and even though they don't know exactly what 500 ft or 1000 ft is, if they start getting a lot of low flying reports they have a problem.

Ms. Lewis said they will be taking a look at the noise report and take the Commission's recommendations into consideration.

Ms. Lewis advised the Commission the next P150 Public workshop is scheduled for March 31<sup>st</sup>. She added this is the second workshop and there will be a document available on the website on or after March 21<sup>st</sup>. During the workshop they will be looking for input on those documents. Mr. Mascaro advised the Commission flyers would be emailed out regarding the public workshop. Ms. Lewis advised the Commission that callers who call the noise complaint line would hear a recorded announcement regarding the public workshops for the Part 150 Study.

## **OPERATIONS UPDATE**

### **Item 9 – Information**

Review of Airport Operations for February 2004.

Mr. Chris Read provided the Commission with a review of Airport Operations for February 2004 and responded to questions from the Commission concerning details of the incidents.

## **MEETING SCHEDULE**

### **Item 10 – Action**

Review/Modify 2004 Meeting Schedule.

Chairman Maxwell stated they would call a special meeting with an Executive Session on March 24.

## **PUBLIC COMMENT**

There were no public comments at this time.

## **DIRECTOR'S REPORT**



Mr. Gray said the City would be working with other Airports across the country regarding Stage 1 and Stage 2 aircraft. There might be some federal legislation similar to what was done in the commercial airline industry in phasing those aircraft out.

The City will also be looking at the most recent lawsuit filed by NATCA revolving around the Contract Tower program which staff is looking into and will provide more details as they are received.

### **ITEMS FROM THE COMMISSION**

Commissioner Vickers inquired when they would get the chance to meet the new Transportation department director, Ms. Mary O'Connor. Mr. Gray said she would have liked to be here this evening but could not, however, in the future she hopes to attend all Airport Commission meetings.

Chairman Maxwell stated he received a call regarding PetSmart's question if every time they move their plane to pick up passengers from Scottsdale Air Center they have to complete a Visiting Aircraft form. Mr. Gray responded that was correct.

### **ADJOURNMENT**

Commissioner Mack made a motion to adjourn the meeting. Commissioner Guilfoxy seconded the motion and the meeting was adjourned at 7:55 p.m.

Respectfully submitted,

Diana Maggiola  
Administrative Secretary